

1654

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

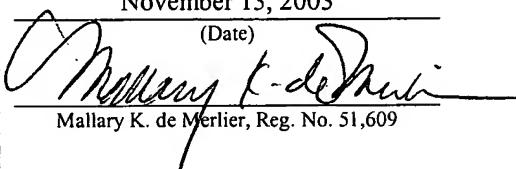
Applicant : Komorowski et al.
Appl. No. : 10/001,322
Filed : October 31, 2001
For : METHODS AND
COMPOSITIONS FOR THE
IMPROVEMENT OF INSULIN
SENSITIVITY, REDUCTION OF
HYPERGLYCEMIA, AND
REDUCTION OF
HYPERCHOLESTEROLEMIA
WITH CHROMIUM
COMPLEXES AND ALPHA
LIPOIC ACID
Examiner : P. Patten
Group Art Unit : 1654

CERTIFICATE OF MAILING

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

November 13, 2003

(Date)


Mallary K. de Merlier, Reg. No. 51,609INTERVIEW SUMMARY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants wish to thank Examiner Patten and her supervisor, Examiner Brumback, for participating in the telephonic interview on November 4, 2003 to discuss the above-referenced patent application. We appreciate their time and thoughtful participation in the telephonic interview.

Summary of Interview begins on page 2 of this paper.

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SUMMARY OF TELEPHONIC INTERVIEW ON NOVEMBER 4, 2003

List of Participants

1. Examiner Patricia Patten
2. Examiner Brenda Brumback
3. Ned A. Israelsen
4. Christopher Westberg, Ph.D.
5. Mallary K. de Merlier

Identification of Claims Discussed

Claims 1-9

Identification of Prior Art Discussed

Cartron (U.S. Patent No. 6,277,842)

de la Harpe et al. (U.S. Patent No. 5,980,905)

Principal Arguments and Other Matters

We discussed the term "consisting essentially of" in the claims. Applicants contend that the ingredients found in the prior art would "materially affect the novel characteristics of the claimed invention," and therefore assert the position that the claims are novel over the prior art. The Examiner maintains that the additional ingredients found in the prior art would not materially change the novel characteristics because the intent of the prior art composition was consistent with the purposes of the invention. The PTO took the broad position that the transitional phrase "consisting essentially of" does not exclude all pharmaceutically active compounds. Narrowly, the PTO stated its opinion that the transitional phrase "consisting essentially of" excludes all active ingredients that have a deleterious effect on the intended use of the claimed composition but does not exclude complimentary or facilitating ingredients.

Results of Interview

Agreement with respect to the claims was not reached.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Nov. 13, 2003

By:


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